

Chapter 296-122 WAC Summary

AGRICULTURAL EMPLOYMENT OF MINORS

As part of the Youth Employment Updates CR-102, L&I is proposing to create a new chapter, Chapter 296-122 WAC, for agricultural child labor. L&I is proposing to repeal the duplicate sections of Chapter 296-131 WAC, Agricultural Employment Standards, which deal with child labor standards.

WAC 296-122-005 Applicability: The section reflects guidance currently found in WAC 296-131-001.

WAC 296-122-010 Definitions: The section incorporates the definitions currently found in WAC 296-131-005. The section includes new definitions for “non-school week,” “school holiday,” “school vacation,” “school week,” and “serious physical harm.”

WAC 296-122-020 Age of employment: The section reflects the requirements currently found in WAC 296-131-115.

WAC 296-122-030 Employment records: The section describes the documents an employer must obtain when hiring a minor. The section provides further details on current requirements found in WAC 296-131-130.

WAC 296-122-040 Permits to employ minors: The section describes the requirement to have a minor work permit before an employer may hire a minor. The section clarifies the process for permit issuance and expiration and matches the description with the Dept. of Revenue’s procedures.

WAC 296-122-050 Revocation of permits: The section describes when L&I may revoke a minor work permit. The section incorporates requirements found in RCW 49.30.060(4) and clarifies the additional circumstances where L&I may revoke a permit.

WAC 296-122-060 Parental and school authorization: The section describes the process for obtaining parent and school authorization for a minor to work. The section provides additional details for requirements currently found in WAC 296-131-105 and aligns with procedures in non-agricultural industries. The section describes L&I’s existing practices related to the parent/school authorization form.

WAC 296-122-070 Parent/School Authorization – Minor not Attending School or Living with Parent/ Legal Guardian: The section provides guidance on how to complete the parent/school authorization form if a minor is not enrolled in school, not living with a parent or guardian, or both. The section aligns with guidance L&I provides in non-agricultural industries.

WAC 296-122-080 Minimum wages—Minors: The section reflects the requirements currently found in WAC 296-131-117.

WAC 296-122-090 Hours of work for minors in agriculture: The section reorganizes the hours of work standards to improve consistency with non-agricultural standards. The section requires 14- and 15-year-old minors to finish work by 8:00 p.m. if they attend school the next day, rather than if they had school that day. During a typical school week, this would allow 14- and 15-year-old minors to work later on Fridays than Sundays, whereas the standards currently in WAC 296-131-120 allow minors to work later on Sundays than Fridays.

The section also improves consistency with non-agricultural standards by adding exceptions in subsection (5) allowing minors enrolled in college and certain career and technical education programs to work the non-school week hours year-round. Minors who are parents may also work the non-school week hours year-round, instead of being exempt from hours of work rules. The section clarifies that minors emancipated by court order are not subject to hours of work rules.

WAC 296-122-100 Meal and rest periods: The section reflects the requirements currently found in WAC 296-131-020.

WAC 296-122-110 Prohibited and hazardous employment: The section creates additional protections for minors and improves alignment with non-agricultural industries. The section applies several prohibited duties to 16- and 17-year-old minors that currently only protect minors under the age of 16. This includes operating earthmoving machines including trenchers, power post-hole diggers, power post drivers, and nonwalking rotary tillers (subsection (2)(l)). It also includes operating power-driven hoisting apparatuses such as forklifts (subsection (2)(m)) and working at heights (subsection (2)(n)). The height that minors may work at has been lowered to 10 feet above ground instead of 20 feet (subsection (2)(n)).

The section improves protections for minors under the age of 16 by creating a prohibited duty for minors loading or unloading goods onto or from conveyors (subsection (1)(l)).

The section also improves clarity and alignment with non-agricultural industries by separating existing prohibited duties related to power-driven saws, woodworking machines, and metal forming equipment into individual prohibited duties (subsections (2)(d) through (2)(f)). Reciprocating saws, woodchippers, and abrasive cutting discs were added to subsection (2)(f), which concerns saws, and work on or about a roof was added to subsection (2)(h), which concerns roofing.

The section removes the exemption from prohibited duty rules for minors who have completed federal extension service or vocational agriculture training programs.

WAC 296-122-120 Lifting: The section reflects the requirements currently found in WAC 296-131-126.

WAC 296-122-130 Variances: The section incorporates the requirements currently found in WAC 296-131-140. The section provides additional details on variance application procedures and expiration dates. The section includes the requirement created by ESHB 1644 that L&I conduct a safety and health and child labor consultation before issuing a student-learner variance. The section consolidates the description of student-learner variances from WAC 296-122-100.

The section also updates the prohibited duties eligible for a student-learner variance. The section removes operating earthmoving machines including trenchers, power post-hole diggers, power post drivers, nonwalking rotary tillers, forklifts, and working at heights from the list of duties 14- and 15-year-old minors are eligible for under student-learner variance.

The section also aligns standards with those in non-agricultural industries by introducing student-learner variances for 16- and 17-year-olds. Minors aged 16 and 17 are eligible for a student-learner variance to work in occupations involving woodworking machines, metal forming machines, meat packing, power-driven saws, roofing, and excavations if the minor is participating in certain educational programs.

WAC 296-122-140 Special variance: The section improves alignment with non-agricultural industries by establishing special variances for minors working in agriculture. Special variances allow 16- and 17-year-old minors to work additional hours per day with parent and school approval.

WAC 296-122-150 Retaliation: The section establishes retaliation protections for minor employees who exercise their workplace rights. L&I will use the same procedures for investigating allegations of child labor retaliation as the department uses for the Minimum Wage Act.

WAC 296-122-160 Enforcement Authority: The section clarifies L&I's enforcement authority for the chapter. The section clarifies the steps that L&I may take during an investigation, including requesting the employer notify affected employees of an investigation and requesting the employer conduct a self-audit.

WAC 296-122-170 Enforcement – Civil Penalties: The section describes the enforcement action L&I may take if it determines that a child labor violation occurred. The section reflects the requirements created by ESHB 1644 and found in RCW 49.30.060.

WAC 296-122-180 Appeals: The section describes the appeals procedures following an L&I action or decision. The section reflects procedures created by ESHB 1644 and found in RCW 49.30.060.

WAC 296-122-190 Severability: The section describes L&I's ability to enforce the rules if a portion of the rules are found to be invalid.